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July 24, 1995

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JUL 24 1995

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

**RE: MM Docket No. 95-74**

Dear Mr. Caton:

On behalf of Withers Broadcasting Company of Texas, there are transmitted herewith an original and four copies of its Comments in the above-referenced proceeding involving the FM Table of Allotments at Benavides and Bruni, Texas.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,

  
James A. Koerner  
COUNSEL FOR WITHERS BROADCASTING  
COMPANY OF TEXAS

Enclosures

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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**JUL 24 1995**

**FEDERAL COMMUNICATIONS  
COMMISSION**

**In the Matter of**

**Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
(Benavides and Bruni, Texas)**

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**MM Docket No. 95-74  
RM 8579**

**TO: Chief Allocations Branch  
Policy and Rules Division  
Mass Media Bureau**

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**COMMENTS**

Withers Broadcasting Company of Texas ("Withers"), licensee of Television Station KAVU, Victoria, Texas, hereby submits its comments in the above-captioned matter, in response to the Notice of Proposed Rule Making released June 1, 1995.

1. The proponent in this proceeding, Benavides Communications ("Petitioner"), is the permittee of unbuilt Station KXTM(FM), Channel 299C2, Benavides, Texas. The Petitioner seeks to reallocate Channel 299C2 from Benavides to Bruni, and to allot, in its place, Channel 254A at Benavides.

2. Withers offers no particular comment with respect to the wisdom of allotting any channel, let alone a Class C2 channel, to a place with a population of only 375 persons, and which may not even qualify as a "community." Further, Withers notes that the Commission has specifically requested information with respect to the potential loss of proposed service in the event the Petitioner's proposal is adopted.

3. The allocation study for Channel 254A at Benavides, attached to the Petition for Rulemaking, reflects that, at the specified coordinates for Benavides, Channel 254A would actually be slightly short-spaced to Station KTXN(FM), Channel 254C1, Victoria, Texas. Because of rounding, this would be considered fully-spaced. Nevertheless, it is only barely so.

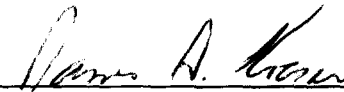
4. Withers is aware that the licensee of Station KTXN, Cosmopolitan Enterprises of Victoria, Inc. ("Cosmopolitan") is proposing to file a counterproposal in the instant proceeding. Withers understands the basis for such counterproposal is to preserve Cosmopolitan's ability to upgrade Station KTXN to a full Class C operation on Channel 254. In that counterproposal, Withers understands that Cosmopolitan will be proposing that Channel 265A be allotted to Benavides in the event that Channel 299C2 is reallocated to Bruni. That counterproposal, however, will speak for itself.

5. As a member of the broadcast community in Victoria, Withers believes that the public interest will be far better served by permitting Cosmopolitan to upgrade Station KTXN to a full Class C than to allot a Class C2 channel to a place with a population of fewer than 400 persons. However, if the Commission determines to make such reallocation, Withers urges that the substitute channel at Benavides be such as not to interfere with the potential for an upgrade of an existing Victoria station. As such, Withers supports

the counterproposal of Cosmopolitan or any other solution which preserves the upgrade potential for KTXN.

Respectfully submitted,

**WITHERS BROADCASTING COMPANY OF  
TEXAS**

By   
James A. Koerner  
Its Attorney

**CERTIFICATE OF SERVICE**

I, Linda M. Blair, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P.C., do hereby certify that a copy of the foregoing Pleading was served this 24th day of July, 1995, via first class mail, postage prepaid upon the following:

Lee J. Peltzman, Esq.  
Shainis & Peltzman  
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Suite 200  
Washington, D.C. 20036

  
\_\_\_\_\_  
Linda M. Blair